IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929
WA.No. 1089 of 2007()

AGAINST THE JUDGEMENT IN WPC.9378/2007 Dated 30/03/2007
.....

APPELLANT: PETITIONER

THE MANAGER,
UHSS, MAMBRA, ERAYAMKUDY P.O., THRISSUR DISTRICT.

BY ADV. SRI.ABRAHAM VAKKANAL
SRI.PAUL ABRAHAM VAKKANAL
SRI.BIJIMON C.CHERIAN
SMT.K.S.SUMITHA

RESPONDENTS: RESPONDENTS
---
1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR OF EDUCATION,
THRISSUR.

3. THE DISTRICT EDUCATIONAL OFFICER,
IRINJALAKUDA.

4. SMT.K.P.VIMALA DEVI,
HEADMISTRESS (UNDER SUSPENSION),
UHSS, MAMBRA, PONNAMBIL HOUSE, ERAYAMKUDY P.O.,
THRISSUR DISTRICT.

BY GOVT PLEADER SHRI. BENNY GERVASIS FOR R1 TO R3
SHRI.ELVIN PETER FOR R4

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 13/04/2007 ALONG WITH WA 1094/07, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.Raman & Antony Dominic, JJ.
==========
W.A.Nos.1089 & 1094 of 2007
==========

Dated this the 13th day of April, 2007.

JUDGMENT

Raman,J.

Challenge is against a common judgment rendered in W.P.(C) Nos.838 and 9378 of 2007. While W.P.(C) No.838 of 2007 was filed by the affected Teacher, W.P.(C) No.9378 of 2007 was filed by the Manager challenging Exts.P7 and P12. The matter relates to suspension of the Teacher while in service. The fourth respondent in the appeal was ordered to be suspended by the Manager and submitted a report to the Deputy Director of Education under Rule 67 (8) of Chapter XIV A of Kerala Education Rules (hereinafter referred to as 'K.E.R.'). The Deputy Director of Education ordered to reinstate the fourth respondent in service with immediate effect. That was challenged by the Manager before the Government. The Government passed Ext.P12 order confirming the order passed by the Deputy Director of Education. Challenging those orders, Exts.P7 and P12, the Manager preferred the Writ Petition. The fourth respondent, on the other hand, also filed the Writ petition challenging the order of

suspension Ext.P1. Learned single Judge found that the fourth respondent has got a right of appeal under Rule 79 of Chapter XIV A of K.E.R. and so he declined to interfere in the matter under Article 226 of the Constitution of India.

2. A contention was raised by the Manager that the initial order of suspension was not interfered with, since the order is only to reinstate the fourth respondent forthwith. An appeal was preferred by the Manager inter alia contending that the Deputy Director of Education having already passed Ext.P7 order, is not competent to decide the appeal. He placed reliance on the latter part of Rule 79 of Chapter XIV A of K.E.R., which provides that where previous sanction for continuance of suspension has been accorded then the appeal shall lie to the next authority to whom the authority who accorded sanction is subordinate. According to the learned counsel for the fourth respondent, the said provision will not apply, since no sanction is accorded by the Deputy Director of Education and as such, he is competent to take a decision on the appeal filed by the fourth respondent. Normally the appeal is before the Deputy Director of Education, so this Court directed the Deputy Director of Education to consider the said appeal in accordance with law. However, it is open to the fourth respondent to raise all his contentions before the Deputy

Director of Education, whereupon the Deputy Director of Education will consider the same in accordance with law.

Writ Appeals are disposed of as above.

P.R.Raman,
judge.

Antony Dominic,
Judge.

ess 16/4